

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
COLUMBIA DIVISION

UNITED STATES OF AMERICA

v.

REGINAL MARCELLIUS BOYD

CR. No. 0:09-198-JFA

ORDER

The court has this day entered an order denying the defendant's petition under 28 U.S.C. § 2255. Although the court denied the relief requested, the § 2255 petition raised an issue that the court has determined justifies a clarification order from this court regarding the defendant's sentence, so that the Bureau of Prisons will be accurately apprised of the content of the Presentence Investigation Report (PSR) in this case.

Boyd was indicted for being a felon in possession of a firearm and ammunition, in violation of 18 U.S.C. § 922(g)(1). On October 21, 2009, Boyd pled guilty without a written plea agreement.

The PSR prepared in connection with Boyd's sentencing calculated Boyd's total offense level to be 25. This calculation included a four-level enhancement under U.S.S.G. § 2K2.1(b)(6) for using the firearm in connection with another felony offense (the felony offense being pointing and presenting a firearm). PSR at ¶ 63. Boyd, through his court-appointed counsel, objected to the four-level enhancement and the court sustained the objection. Notwithstanding this fact, the PSR was not revised to remove the enhancement in the body of the document, but rather the Statement of Reasons form of the sentence indicates that the court sustained the objection.

Boyd contends in his § 2255 petition that the reference to the four-level enhancement in the body of the PSR is causing his security level to be enhanced. This order is being entered to


clarify that the court did not find that Boyd pointed and presented the firearm in question, and for that reason, the objection was sustained and the four-level enhancement was not applied.

The Clerk is requested to forward a copy of this order, and the attached order on the § 2255 petition, to the Federal Bureau of Prisons facility where Boyd is currently being housed.

The court wishes to emphasize that it is in no way directing the Bureau of Prisons to re-classify Boyd. It may well be that other factors have come into play which affect his classification level. The court is entering this order simply to clarify that the enhancement was not applied in Boyd's case.

IT IS SO ORDERED.

December 3, 2012
Columbia, South Carolina

A handwritten signature in black ink, reading "Joseph F. Anderson, Jr." in a cursive script.

Joseph F. Anderson, Jr.
United States District Judge